
By: **Delegates Owings and Hubbard**
Introduced and read first time: February 23, 2004
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Lead-Based Paint - Reduction of Lead Risk in Housing**

3 FOR the purpose of altering the application of certain provisions of law governing
4 reduction of lead risk in housing; altering the exemption of certain property
5 from certain provisions under certain circumstances; requiring an owner of a
6 certain affected property to submit a certain certification to maintain a certain
7 exemption; providing that certificates of lead-based paint free housing are
8 effective from a certain date; providing that certain classifications are effective
9 from a certain date provided that certain renewal certificates are issued;
10 requiring an owner of an affected property to perform certain lead hazard
11 reduction treatments related to presumed lead-based paint or lead-based paint;
12 altering the type of detergent to be used in certain vacuuming and washing of an
13 affected property; authorizing certain risk reduction work to be delayed during a
14 certain period; authorizing certain inspectors to conduct certain
15 lead-contaminated dust testing under certain conditions; requiring a certain
16 testing process to consist of certain samples; prohibiting certain samples or
17 means from exceeding a certain definition; requiring certain areas of an affected
18 property to be cleaned and retested under certain conditions; requiring an owner
19 of an affected property to perform certain modified risk reduction treatments
20 related to presumed lead-based paint or lead-based paint; authorizing an owner
21 of an affected property to elect to pass a certain lead-contaminated dust test
22 instead of satisfying a certain standard; altering certain requirements to include
23 situations when an owner of affected property takes certain actions that will
24 disturb presumed lead-based paint or lead-based paint; providing that certain
25 requirements do not apply to an owner of an affected property that has certain
26 certification; adding certain definitions; altering certain definitions; making
27 certain conforming changes; making certain technical corrections; making
28 certain stylistic changes; and generally relating to the reduction of lead risk in
29 housing.

30 BY repealing and reenacting, with amendments,
31 Article - Environment
32 Section 6-801, 6-803, 6-804, 6-811, 6-815, 6-817, 6-819, 6-821, 6-823, 6-828,
33 6-843, 6-846, and 6-848
34 Annotated Code of Maryland

1 (1996 Replacement Volume and 2003 Supplement)

2 BY repealing

3 Article - Environment

4 Section 6-816

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 2003 Supplement)

7 BY adding to

8 Article - Environment

9 Section 6-816

10 Annotated Code of Maryland

11 (1996 Replacement Volume and 2003 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Environment**

15 6-801.

16 (a) In this subtitle the following words have the meanings indicated.

17 (B) "ACCESSIBLE TO A CHILD" MEANS A SURFACE WITHIN A HEIGHT OF 4 FEET
18 FROM THE NEAREST HORIZONTAL SURFACE THAT HAS PRESUMED LEAD-BASED
19 PAINT OR LEAD-BASED PAINT AS A SURFACE COATING.

20 [(b)] (C) (1) "Affected property" means A STRUCTURE CONSTRUCTED
21 BEFORE 1950 THAT IS LEASED, AS A WHOLE OR IN PART, AS RESIDENTIAL RENTAL
22 PROPERTY, AND:

23 (i) [A property constructed before 1950 that contains at least one
24 rental dwelling unit; or

25 (ii) Any residential rental property] IN A MULTIFAMILY PROPERTY,
26 IS ONLY THE LEASED SPACE OF A RENTAL DWELLING UNIT;

27 (II) IN A SINGLE-FAMILY PROPERTY, IS THE LEASED SPACE
28 ASSOCIATED WITH THE RENTAL DWELLING UNIT; OR

29 (III) IS A RENTAL DWELLING UNIT for which the owner makes an
30 election under § 6-803(a)(2) of this subtitle.

31 (2) "Affected property" includes an individual rental dwelling unit within
32 a multifamily rental dwelling.

33 (3) "Affected property" does not include property exempted under §
34 6-803(b) of this subtitle.

1 [(c) (D) "Change in occupancy" means a change of tenant in an affected
2 property in which the property is vacated and possession is either surrendered to the
3 owner or abandoned.

4 [(d) (E) "Child" means an individual under the age of 6 years.

5 [(e) (F) "Commission" means the Lead Poisoning Prevention Commission.

6 (G) "DE MINIMIS LEVEL" MEANS:

7 (1) 20 SQUARE FEET ON A BUILDING'S EXTERIOR SURFACES;

8 (2) 2 SQUARE FEET IN ANY ONE INTERIOR ROOM OR SPACE; OR

9 (3) 10% OF THE TOTAL SURFACE AREA ON AN INTERIOR OR EXTERIOR
10 ARCHITECTURAL COMPONENT OR ELEMENT WITH A SMALL SURFACE AREA.

11 [(f) (H) ["Elevated] "ENVIRONMENTAL INTERVENTION blood lead" or
12 ["EBL"] "EIBL" means a [quantity] CONFIRMED CONCENTRATION of lead in whole
13 venous blood[, expressed in micrograms per deciliter (ug/dl), that exceeds a specified
14 threshold level] EQUAL TO OR GREATER THAN 20 MICROGRAMS OF LEAD PER
15 DECILITER IN TWO TESTS TAKEN AT LEAST 3 MONTHS APART.

16 [(g) (I) "Exterior surfaces" means:

17 (1) All fences and porches that are part of an affected property;

18 (2) All outside surfaces of an affected property that are accessible to a
19 child and that:

20 (i) Are attached to the outside of an affected property; or

21 (ii) Consist of other buildings that are part of the affected property;
22 and

23 (3) All painted surfaces in stairways, hallways, entrance areas,
24 recreation areas, laundry areas, and garages within a multifamily rental dwelling
25 unit that are common to individual dwelling units and are accessible to a child.

26 [(h) (J) "Fund" means the Lead Poisoning Prevention Fund.

27 [(i) (K) (1) "High efficiency particle air vacuum" or "HEPA-vacuum"
28 means a device capable of filtering out particles of 0.3 microns or greater from a body
29 of air at an efficiency of 99.97% or greater.

30 (2) "HEPA-vacuum" includes use of a HEPA-vacuum.

31 [(j) (L) "Lead-based paint" means [paint or other surface coatings that
32 contain lead in excess of the maximum lead content level allowed by the Department
33 by regulation] PAINT, STAIN, SHELLAC, OR VARNISH THAT EXCEEDS:

1 (1) 0.7 MILLIGRAMS OF LEAD PER SQUARE CENTIMETER AS TESTED BY
2 AN X-RAY FLUORESCENCE ANALYZER OR LABORATORY ANALYSIS; OR

3 (2) 0.5% LEAD BY WEIGHT IN DRIED STATE BY LABORATORY ANALYSIS
4 FOR APPLICATIONS IN WHICH AN X-RAY FLUORESCENCE INSTRUMENT OR
5 ACCURATE SURFACE AREA MEASUREMENT CANNOT BE OBTAINED.

6 [(k)] (M) "Lead-contaminated dust" means dust [in affected properties]
7 that contains [an area or mass concentration of lead in excess of the lead content level
8 determined by the Department by regulation] A MASS-PER-AREA CONCENTRATION
9 OF LEAD EQUAL TO OR EXCEEDING:

10 (1) 40 MICROGRAMS PER SQUARE FOOT ON A FLOOR; OR

11 (2) 250 MICROGRAMS PER SQUARE FOOT ON AN INTERIOR WINDOWSILL
12 BASED ON A SINGLE SURFACE WIPE SAMPLE.

13 [(l)] (N) ["Lead-free"] "LEAD-BASED PAINT FREE HOUSING" means at or
14 below [a lead content level deemed to be lead-free in accordance with criteria
15 established by the Department by regulation] THE LIMITS OF LEAD-BASED PAINT
16 TESTED IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE UNITED STATES
17 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

18 [(m)] (O) "Lead-safe housing" means a rental dwelling unit that:

19 (1) Is certified to be [lead-free] LEAD-BASED PAINT FREE HOUSING in
20 accordance with § 6-804 of this subtitle;

21 (2) Was constructed after 1978;

22 (3) Is deemed to be lead-safe by the Department in accordance with
23 criteria established by the Department by regulation; or

24 (4) Is certified to be in compliance with § 6-815(a) of this subtitle and:

25 (i) In which all [windows are either lead-free or have been treated
26 so that all friction surfaces are lead-free] WINDOW FRICTION SURFACES ARE FREE
27 OF LEAD-BASED PAINT OR ARE FREE FROM DIRECT FRICTION OR ABRASION OF
28 LEAD-BASED PAINT AS EVIDENCED BY THE PRESENCE OF LEAD-CONTAMINATED
29 DUST ON THE WINDOWSILLS;

30 (ii) In which [lead particulate levels are determined to be within
31 abatement clearance levels established by the Department by regulation,] THE
32 INTERIOR OF THE AFFECTED PROPERTY IS FREE OF LEAD-CONTAMINATED DUST, AS
33 DETERMINED BY TESTS PERFORMED within 15 days prior to the relocation of a
34 person at risk to the rental dwelling unit in accordance with a qualified offer made
35 under Part V of this subtitle; and

36 (iii) Which is subject to ongoing maintenance and testing [as
37 specified by the Department by regulation] EVERY 2 YEARS WHILE THE RENTAL

1 DWELLING UNIT IS OCCUPIED BY A CHILD WHO WAS THE SUBJECT OF A QUALIFIED
2 OFFER UNDER PART V OF THIS SUBTITLE.

3 [(n)] (P) "Multifamily [rental dwelling] PROPERTY" means a property
4 which contains more than one rental dwelling unit.

5 [(o)] (Q) (1) "Owner" means a person, firm, corporation, guardian,
6 conservator, receiver, trustee, executor, or legal representative who, alone or jointly or
7 severally with others, owns, holds, or controls the whole or any part of the freehold or
8 leasehold interest to any property, with or without actual possession.

9 (2) "Owner" includes:

10 (i) Any vendee in possession of the property; and

11 (ii) Any authorized agent of the owner, including a [property
12 manager or leasing agent] PROPERTY MANAGEMENT COMPANY.

13 (3) "Owner" does not include:

14 (i) A trustee or a beneficiary under a deed of trust or a mortgagee;
15 or

16 (ii) The owner of a reversionary interest under a ground rent lease.

17 [(p)] (R) "Person at risk" means [a child] AN INDIVIDUAL UNDER THE AGE
18 OF 6 YEARS or a pregnant woman who resides or regularly spends at least 24 hours
19 per week in an affected property.

20 (S) "PRESUMED LEAD-BASED PAINT" MEANS PAINT, STAIN, SHELLAC, OR
21 VARNISH IN A RENTAL DWELLING UNIT CONSTRUCTED BEFORE 1950 THAT HAS NOT
22 UNDERGONE DIRECT NONDESTRUCTIVE TESTING, LABORATORY ANALYSIS, OR
23 STATISTICAL SAMPLING.

24 [(q)] (T) "Related party" means any:

25 (1) Person related to an owner by blood or marriage;

26 (2) Employee of the owner; or

27 (3) Entity in which an owner, or any person referred to in paragraph (1)
28 or (2) of this subsection, has an interest.

29 [(r)] (U) "Relocation expenses" means all expenses necessitated by the
30 relocation of a tenant's household to lead-safe housing, including moving and hauling
31 expenses, the HEPA-vacuuming of all upholstered furniture, payment of a security
32 deposit for the lead-safe housing, and installation and connection of utilities and
33 appliances.

1 [(s)] (V) "Rent subsidy" means the difference between the rent paid by a
2 tenant for housing at the time a qualified offer is made under Part V of this subtitle
3 and the rent due for the lead-safe housing to which the tenant is relocated.

4 [(t)] (W) (1) "Rental dwelling unit" means a room or group of rooms that
5 form a single independent habitable rental unit for permanent occupation by one or
6 more individuals that has living facilities with permanent provisions for living,
7 sleeping, eating, cooking, and sanitation.

8 (2) "Rental dwelling unit" does not include:

9 (i) An area not used for living, sleeping, eating, cooking, or
10 sanitation, such as an unfinished basement;

11 (ii) A unit within a hotel, motel, or similar seasonal or transient
12 facility;

13 (iii) An area which is secured and inaccessible to occupants; or

14 (iv) A unit which is not offered for rent.

15 [(u)] (X) "Risk reduction standard" means a risk reduction standard
16 established under § 6-815 or § 6-819 of this subtitle.

17 6-803.

18 (a) This subtitle applies to:

19 (1) Affected property; and

20 (2) Notwithstanding subsection (b) of this section, any [residential
21 rental property] RENTAL DWELLING UNIT, the owner of which elects to comply with
22 this subtitle.

23 (b) This subtitle does not apply to:

24 (1) [Property] RENTAL DWELLING UNITS AND PROPERTY not expressly
25 covered in subsection (a) of this section;

26 (2) Affected property owned or operated by a unit of federal, State, or
27 local government, or any public, quasi-public, or municipal corporation, if the affected
28 property is subject to lead standards that are equal to, or more stringent than, the
29 risk reduction standard established under § 6-815 of this subtitle; or

30 (3) Affected property [which] THAT is certified to be [lead-free] FREE
31 OF LEAD-BASED PAINT pursuant to § 6-804 of this subtitle.

32 6-804.

33 (a) Affected property is exempt from the provisions of Part IV of this subtitle
34 if the owner submits to the Department an inspection report that:

1 (1) Indicates that the affected property has been tested for the presence
2 of lead-based paint in accordance with standards and procedures established by the
3 Department by regulation; and

4 (2) [States that] INDICATES THAT:

5 (I) THE AFFECTED PROPERTY IS CERTIFIED AS LEAD-BASED
6 PAINT FREE HOUSING; OR

7 (II) THE AFFECTED PROPERTY IS CLASSIFIED AS LEAD-BASED
8 PAINT FREE HOUSING WITH EXEMPTION, INCLUDING A REPORT THAT INDICATES:

9 [(i)] 1. All interior surfaces of the affected property are
10 [lead-free] FREE OF LEAD-BASED PAINT; AND

11 [(ii)] 2. All COMMON AND exterior SURFACE AREAS painted
12 [surfaces of the affected property that were chipping, peeling, or flaking have been
13 restored with nonlead-based paint; and

14 [(iii)] No exterior painted surfaces of the affected property are
15 chipping, peeling, or flaking; and

16 (3) Is verified by the Department accredited inspector who performed
17 the test], SUBJECT TO THE DE MINIMIS LEVEL, ARE INTACT.

18 (b) In order to maintain exemption from the provisions of Part IV of this
19 subtitle, the owner shall submit to the Department every 2 years a certification, by a
20 Department accredited inspector, stating that no [exterior painted] COMMON OR
21 EXTERIOR LEAD-BASED PAINTED surface of the affected property is chipping, peeling,
22 or flaking.

23 6-811.

24 (a) (1) On or before December 31, 1995, the owner of an affected property
25 shall register the affected property with the Department.

26 (2) Notwithstanding paragraph (1) of this subsection, an owner of
27 affected property for which an election is made under § 6-803(a)(2) of this subtitle
28 shall register at the time of the election.

29 (b) The owner shall register each affected property using forms prepared by
30 the Department, including the following information:

31 (1) The name and address of the owner;

32 (2) The address of the affected property;

33 (3) If applicable, the name and address of each property [manager]
34 MANAGEMENT COMPANY employed by the owner to manage the affected property;

1 (4) The name and address of each insurance company providing property
2 insurance or lead hazard coverage for the affected property, together with the policy
3 numbers of that insurance or coverage;

4 (5) The name and address of a resident agent, other agent of the owner,
5 or contact person in the State with respect to the affected property;

6 (6) Whether the affected property was built before 1950 or after 1949;

7 (7) The date of the latest change in occupancy of the affected property;

8 (8) The dates and nature of treatments performed to attain or maintain
9 a risk reduction standard under § 6-815 or § 6-819 of this subtitle; and

10 (9) The latest date, if any, on which the affected property has been
11 certified to be in compliance with the provisions of § 6-815 of this subtitle.

12 (c) (1) Subject to the provisions of paragraph (2) of this subsection, the
13 information provided by an owner under subsection (b) of this section shall be open to
14 the public.

15 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
16 Department may not disclose an inventory or list of properties owned by an owner.

17 (ii) The Department shall, upon request, disclose whether the
18 owner has met the percentage of inventory requirements under § 6-817 of this
19 subtitle.

20 6-815.

21 (a) No later than the first change in occupancy in an affected property that
22 occurs on or after February 24, 1996, before the next tenant occupies the property, an
23 owner of an affected property shall initially satisfy the risk reduction standard
24 established under this subtitle by:

25 (1) Passing the test for lead-contaminated dust under § 6-816 of this
26 subtitle [provided that any chipping, peeling, or flaking paint has been removed or
27 repainted on:

28 (i) The exterior painted surfaces of the residential building in
29 which the rental dwelling unit is located; and

30 (ii) The interior painted surfaces of the rental dwelling unit]; or

31 (2) Performing the following lead hazard reduction treatments:

32 (i) A visual review of [all exterior and interior] THE AFFECTED
33 PROPERTY'S PRESUMED LEAD-BASED PAINT OR LEAD-BASED painted surfaces;

- 1 (ii) The removal and repainting of chipping, peeling, or flaking
2 PRESUMED LEAD-BASED PAINT OR LEAD-BASED paint [on exterior and interior
3 painted surfaces];
- 4 (iii) The repair of any structural defect that is causing the
5 PRESUMED LEAD-BASED PAINT OR LEAD-BASED paint to chip, peel, or flake that the
6 owner of the affected property has knowledge of or, with the exercise of reasonable
7 care, should have knowledge of;
- 8 (iv) Stripping and repainting, replacing, or encapsulating all
9 interior windowsills COATED WITH PRESUMED LEAD-BASED PAINT OR LEAD-BASED
10 PAINT with vinyl, metal, or any other material in a manner and under conditions
11 approved by the Department;
- 12 (v) Ensure that caps of vinyl, aluminum, or any other material in a
13 manner and under conditions approved by the Department, are installed in all
14 window wells COATED WITH PRESUMED LEAD-BASED PAINT OR LEAD-BASED PAINT
15 in order to make the window wells smooth and cleanable;
- 16 (vi) Except for a treated or replacement window that is free of
17 lead-based paint on its friction surfaces, fixing the top sash of all windows in place in
18 order to eliminate the friction caused by movement of the top sash, PROVIDED THAT
19 IT DOES NOT VIOLATE STATE, COUNTY, OR MUNICIPAL FIRE CODES;
- 20 (vii) Rehangng all doors necessary in order to prevent the rubbing
21 together of a [lead-painted] PRESUMED LEAD-BASED PAINT OR LEAD-BASED PAINT
22 surface with another surface;
- 23 (viii) Making all bare floors smooth and cleanable;
- 24 (ix) Ensure that all kitchen and bathroom floors are overlaid with a
25 smooth, water-resistant covering; and
- 26 (x) HEPA-vacuuming and washing of the interior of the affected
27 property with [high phosphate] HIGH-GRADE detergent [or its equivalent, as
28 determined by the Department].
- 29 (b) At each change in occupancy thereafter, before the next tenant occupies
30 the property, the owner of an affected property shall satisfy the risk reduction
31 standard established under this subtitle by:
- 32 (1) Passing the test for lead-contaminated dust under § 6-816 of this
33 subtitle; or
- 34 (2) (i) Repeating the lead hazard reduction treatments specified in
35 subsection (a)(2)(i), (ii), (iii), and (x) of this section; and
- 36 (ii) Ensuring that the lead hazard reduction treatments specified in
37 subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in effect.

1 (c) Except for affected properties that pass a test for lead-contaminated dust
2 under § 6-816 of this subtitle, at each change in occupancy, an owner of an affected
3 property shall have the property inspected to verify that the risk reduction standard
4 specified in this section has been satisfied.

5 (d) (1) Exterior work required to satisfy the risk reduction standard may be
6 delayed[, pursuant to a waiver approved by the appropriate person under paragraph
7 (2) of this subsection, during any time period in which exterior work is not required to
8 be performed under an applicable local housing code or, if no such time period is
9 specified,] during the period from November 1 through April 1, inclusive.

10 (2) [A waiver under paragraph (1) of this subsection may be approved by
11 the code official for enforcement of the housing code or minimum livability code of the
12 local jurisdiction, or, if there is no such official, the Department of Housing and
13 Community Development.

14 (3) Notwithstanding the terms of the waiver, all work delayed in
15 accordance with paragraph (1) of this subsection shall be completed within 30 days
16 after the end of the applicable time period.

17 [(4)] (3) Any delay allowed under paragraph (1) of this subsection may
18 not affect the obligation of the owner to complete all other components of the risk
19 reduction standard and to have those components inspected and verified.

20 [(5)] (4) If the owner has complied with the requirements of paragraph
21 [(4)] (3) of this subsection, the owner may rent the affected property during any
22 period of delay allowed under paragraph (1) of this subsection.

23 (e) On request of a local jurisdiction, the Secretary may designate the code
24 official for enforcement of the housing code or minimum livability code for the local
25 jurisdiction, or an appropriate employee of the local jurisdiction, to conduct
26 inspections under this subtitle.

27 [6-816.

28 The Department shall establish procedures and standards for the optional
29 lead-contaminated dust testing by regulation.]

30 6-816.

31 (A) AN ACCREDITED INSPECTOR MAY CONDUCT LEAD-CONTAMINATED DUST
32 TESTING TO SATISFY THE STANDARDS UNDER THIS SUBTITLE IF THE AFFECTED
33 PROPERTY, SUBJECT TO THE DE MINIMIS LEVEL, IS FREE OF CHIPPING, PEELING,
34 AND FLAKING PRESUMED LEAD-BASED PAINT OR LEAD-BASED PAINT.

35 (B) THE TESTING PROCESS SHALL CONSIST OF OBTAINING A FLOOR SAMPLE
36 AND A WINDOWSILL SAMPLE IN EACH INTERIOR ROOM WITHIN THE AFFECTED
37 PROPERTY.

1 (C) (1) THE MEAN OF THE SAMPLES' CONCENTRATIONS OF LEAD MAY NOT
2 EXCEED THE MASS-PER-CONCENTRATION LEVELS OF LEAD IN
3 LEAD-CONTAMINATED DUST.

4 (2) IF THE MEAN EXCEEDS THE MASS-PER-CONCENTRATION LEVELS OF
5 LEAD IN LEAD-CONTAMINATED DUST, THEN THE ENTIRE INTERIOR OF THE
6 AFFECTED PROPERTY SHALL BE CLEANED AND RETESTED.

7 (3) IF AN INDIVIDUAL FLOOR OR WINDOWSILL SAMPLE EXCEEDS THE
8 MASS-PER-CONCENTRATION LEVELS OF LEAD IN LEAD-CONTAMINATED DUST,
9 THEN THE INTERIOR ROOM CORRESPONDING TO THE SAMPLE SHALL BE CLEANED
10 AND RETESTED.

11 6-817.

12 (a) (1) On and after February 24, 2001, an owner of affected properties shall
13 ensure that at least 50% of the owner's affected properties have satisfied the risk
14 reduction standard specified in § 6-815(a) of this subtitle, without regard to the
15 number of affected properties in which there has been a change in occupancy.

16 (2) (i) Notwithstanding any other remedy that may be available, an
17 owner who fails to meet the requirements of subsections (a)(1) and (c) of this section
18 shall lose the liability protection under § 6-836 of this subtitle for any alleged injury
19 or loss caused by the ingestion of lead by a person at risk that is first documented by
20 a test for [EBL] EIBL of 20 ug/dl or more on or after February 24, 2001, in any of the
21 owner's units that have not satisfied the risk reduction standard specified in §
22 6-815(a) of this subtitle and the inspection requirement of subsection (c) of this
23 section.

24 (ii) The liability protection under § 6-836 of this subtitle shall be
25 reinstated for any alleged injury or loss caused by the ingestion of lead by a person at
26 risk that is first documented by a test for [EBL] EIBL of 20 ug/dl or more on or after
27 the date that the owner meets the requirements of subsections (a)(1) and (c) of this
28 section.

29 (b) (1) On and after February 24, 2006, an owner of affected properties shall
30 ensure that 100% of the owner's affected properties in which a person at risk resides,
31 and of whom the owner has been notified in writing, have satisfied the risk reduction
32 standard specified in § 6-815(a) of this subtitle.

33 (2) (i) Notwithstanding any other remedy that may be available, an
34 owner who fails to meet the requirements of subsections (b)(1) and (c) of this section,
35 or of § 6-819(e) of this subtitle shall lose the liability protection under § 6-836 of this
36 subtitle for any alleged injury or loss caused by the ingestion of lead by a person at
37 risk that is first documented by a test for [EBL] EIBL of 20 ug/dl or more on or after
38 February 24, 2006 in any of the owner's units that have not satisfied the risk
39 reduction standard specified in § 6-815(a) of this subtitle, the inspection requirement
40 of subsection (c) of this section, or the modified risk reduction standard specified in §
41 6-819(a) of this subtitle, as applicable.

1 (ii) The liability protection under § 6-836 of this subtitle shall be
2 reinstated for any alleged injury or loss caused by the ingestion of lead that is first
3 documented by a test for [EBL] EIBL of 20 ug/dl or more after the date that the
4 owner meets the requirements of subsections (b)(1) and (c) of this section and the
5 requirements of § 6-819(e) of this subtitle.

6 (iii) The provisions of this paragraph do not apply if the owner
7 proves that the noncompliance results from:

8 1. A tenant's lack of cooperation with the owner's compliance
9 efforts; or

10 2. Legal action affecting access to the unit.

11 (3) Notice given under subsection (b)(1) of this section shall be sent by:

12 (i) Certified mail, return receipt requested; or

13 (ii) A verifiable method approved by the Department.

14 (c) On each occasion that an affected property which has not undergone a
15 change in occupancy is treated to satisfy the requirements of this section, the owner of
16 the affected property shall have the property inspected to verify that the risk
17 reduction standard specified in § 6-815(a) has been satisfied.

18 (d) The owner of an affected property shall be responsible for the cost of any
19 temporary relocation of the tenants of the affected property that is necessary to fulfill
20 the requirements of this section.

21 6-819.

22 (a) The modified risk reduction standard shall consist of performing the
23 following lead hazard reduction treatments:

24 (1) A visual review of [all exterior and interior] THE AFFECTED
25 PROPERTY'S PRESUMED LEAD-BASED PAINT OR LEAD-BASED painted surfaces;

26 (2) The removal and repainting of THE AFFECTED PROPERTY'S chipping,
27 peeling, or flaking [paint on exterior and interior painted surfaces] PRESUMED
28 LEAD-BASED PAINT OR LEAD-BASED PAINT;

29 (3) The repair of any structural defect that is causing the PRESUMED
30 LEAD-BASED PAINT OR LEAD-BASED paint to chip, peel, or flake, that the owner of
31 the affected property has knowledge of or, with the exercise of reasonable care, should
32 have knowledge of;

33 (4) Stripping and repainting, replacing, or encapsulating all interior
34 windowsills COATED WITH PRESUMED LEAD-BASED PAINT OR LEAD-BASED PAINT
35 with vinyl, metal, or any other material in a manner and under conditions approved
36 by the Department;

1 (5) Ensure that caps of vinyl, aluminum, or any other material in a
2 manner and under conditions approved by the Department, are installed in all
3 window wells COATED WITH PRESUMED LEAD-BASED PAINT OR LEAD-BASED PAINT
4 in order to make the window wells smooth and cleanable;

5 (6) Except for a treated or replacement window WITHIN THE AFFECTED
6 PROPERTY that is free of lead-based paint on its friction surfaces, fixing the top sash
7 of all windows in place in order to eliminate the friction caused by the movement of
8 the top sash, PROVIDED THAT IT DOES NOT VIOLATE STATE, COUNTY, OR MUNICIPAL
9 FIRE CODES;

10 (7) Rehangng all doors WITHIN THE AFFECTED PROPERTY in order to
11 prevent the rubbing together of a [lead-painted] PRESUMED LEAD-BASED PAINT OR
12 LEAD-BASED PAINT surface with another surface;

13 (8) Ensure that all kitchen and bathroom floors WITHIN THE AFFECTED
14 PROPERTY are overlaid with a smooth, water-resistant covering; and

15 (9) HEPA-vacuuming and washing with [high phosphate] HIGH-GRADE
16 detergent [or its equivalent, as determined by the Department,] any area of the
17 affected property where repairs were made.

18 (b) (1) A tenant of an affected property may notify the owner of the affected
19 property of a defect in the affected property under this section in accordance with this
20 subsection.

21 (2) Notice of a defect under this section shall consist of:

22 (i) If the modified risk reduction standard has not been satisfied
23 for the affected property, the presence of chipping, peeling, or flaking PRESUMED
24 LEAD-BASED PAINT OR LEAD-BASED paint on the interior or exterior surfaces of the
25 affected property or of a structural defect causing chipping, peeling, or flaking
26 PRESUMED LEAD-BASED PAINT OR LEAD-BASED paint in the affected property; or

27 (ii) If the modified risk reduction standard has been satisfied for
28 the affected property, a defect relating to the modified risk reduction standard.

29 (c) (1) After February 23, 1996, an owner of an affected property shall
30 satisfy the modified risk reduction standard:

31 (i) Within 30 days after receipt of written notice that a person at
32 risk who resides in the property has an [elevated blood lead] ENVIRONMENTAL
33 INTERVENTION BLOOD LEAD level greater than or equal to 15 ug/dl; or

34 (ii) Except as provided in paragraph (2) of this subsection, within
35 30 days after receipt of written notice from the tenant, or from any other source, of:

36 1. A defect; and

37 2. The existence of a person at risk in the affected property.

1 (2) After February 23, 1996, and before May 23, 1997, an owner of a
2 number of affected properties shall satisfy the modified risk reduction standard
3 within the specified period after receipt of written notice from the tenant, or from any
4 other source, of a defect in accordance with the following schedule:

5 (i) For an owner of 300 or fewer affected properties, within 30 days;
6 and

7 (ii) For an owner of more than 300 affected properties:

8 1. If the owner has received notice from the tenant, or from
9 any other source, of the existence of a person at risk in the affected property, within
10 60 days; or

11 2. If the owner has not received notice from the tenant, or
12 from any other source, of the existence of a person at risk in the affected property,
13 within 90 days.

14 (d) After May 23, 1997, an owner of an affected property shall satisfy the
15 modified risk reduction standard within 30 days after receipt of written notice from
16 the tenant, or from any other source, of a defect.

17 (e) Except as provided in § 6-817(b) of this subtitle, on and after February 24,
18 2006, an owner of affected properties shall ensure that 100% of the owner's affected
19 properties in which a person at risk does not reside have satisfied the modified risk
20 reduction standard.

21 (f) (1) An owner of an affected property shall verify satisfaction of the
22 modified risk reduction standard by submitting a statement of the work performed on
23 the property, verified by the tenant and an accredited supervisor or contractor, to the
24 Department on or before the tenth day of the month following the month in which the
25 work was completed.

26 (2) (i) If the tenant fails or refuses to verify the statement of work
27 performed on the affected property, the owner shall within 5 business days of the
28 failure or refusal, contact an inspector accredited under § 6-818(a) of this subtitle to
29 inspect the affected property.

30 (ii) The inspector's report shall either certify that the work required
31 to be performed under this section was satisfactorily completed or specify precisely
32 what additional work is required.

33 (iii) If additional work is required:

34 1. The owner shall have 20 days after receipt of the
35 inspector's report in which to perform the work, subject to a weather delay under the
36 provisions of subsection (j) of this section; and

37 2. The inspector shall reinspect the affected property after
38 the additional work is completed and:

- 1 A. Issue a report certifying that the work is complete; and
- 2 B. Mail a copy of the report to the tenant, the owner, and the
- 3 Department within 10 days after the inspection or reinspection.

4 (g) In lieu of satisfying the modified risk reduction standard, the owner of an

5 affected property may elect to pass the test for lead-contaminated dust under § 6-816

6 of this subtitle provided that any chipping, peeling, or flaking paint has been removed

7 or repainted on:

8 (1) The exterior painted surfaces of the residential building in which the

9 rental dwelling unit is located; and

10 (2) The interior painted surfaces of the rental dwelling unit.

11 (h) Notice given under this section shall be written, and shall be sent by:

12 (1) Certified mail, return receipt requested; or

13 (2) A verifiable method approved by the Department.

14 (i) The Department may, by regulation, eliminate any treatment from the

15 modified risk reduction standard if the Department finds that performing the

16 treatment in an occupied property is harmful to public health.

17 (j) (1) Exterior work required to satisfy the modified risk reduction

18 standard may be delayed[, pursuant to a waiver approved by the appropriate person

19 under paragraph (2) of this subsection, during any time period in which exterior work

20 is not required to be performed under an applicable local housing code or, if no such

21 time period is specified,] during the period from November 1 through April 1,

22 inclusive.

23 (2) [A waiver under paragraph (1) of this subsection may be approved by

24 the code official for enforcement of the housing code or minimum livability code of the

25 local jurisdiction, or, if there is no such official, the Department of Housing and

26 Community Development.

27 (3)] Notwithstanding the terms of the waiver, all work delayed in

28 accordance with paragraph (1) of this subsection shall be completed within 30 days

29 after the end of the applicable time period.

30 [(4)] (3) Any delay allowed under paragraph (1) of this subsection may

31 not affect the obligation of the owner to complete all other components of the risk

32 reduction standard and to have those components inspected and verified.

33 (k) (1) The statement verified by the owner and the tenant of work

34 performed on the affected property in accordance with subsection (f)(1) of this section

35 or the final report of the inspector verifying that work was performed on the affected

36 property in accordance with subsection (f)(2) of this section shall create a rebuttable

37 presumption, that may be overcome by clear and convincing evidence, that the owner

1 is in compliance with the modified risk reduction standard for the affected property
2 unless there is:

3 (i) Proof of actual fraud as to that affected property; or

4 (ii) Proof that the work performed on the affected property was not
5 performed by or under the supervision of personnel accredited under § 6-1002 of this
6 title.

7 (2) The statement verified by the owner and the tenant of work
8 performed on the affected property in accordance with subsection (f)(1) of this section
9 shall contain a statement:

10 (i) Describing the modified risk reduction standard required under
11 this subtitle;

12 (ii) That execution of this statement by the tenant can affect the
13 tenant's legal rights; and

14 (iii) That if the tenant is not satisfied that the modified risk
15 reduction standard has been met, the tenant should not execute the statement and
16 should inform the owner and that the owner will have the affected property inspected
17 by a certified inspector at the owner's expense.

18 6-821.

19 (a) (1) Whenever an owner of an affected property intends to make repairs
20 or perform maintenance work that will disturb the PRESUMED LEAD-BASED PAINT
21 OR LEAD-BASED paint on interior surfaces of an affected property, the owner shall
22 make reasonable efforts to ensure that all persons who are not persons at risk are not
23 present in the area where work is performed and that all persons at risk are removed
24 from the affected property when the work is performed.

25 (2) A tenant shall allow access to an affected property, at reasonable
26 times, to the owner to perform any work required under this subtitle.

27 (3) If a tenant must vacate an affected property for a period of 24 hours
28 or more in order to allow an owner to perform work that will disturb the PRESUMED
29 LEAD-BASED PAINT OR LEAD-BASED paint on interior surfaces, the owner shall pay
30 the reasonable expenses that the tenant incurs directly related to the required
31 relocation.

32 (b) (1) If an owner has made all reasonable efforts to cause the tenant to
33 temporarily vacate an affected property in order to perform work that will disturb the
34 PRESUMED LEAD-BASED PAINT OR LEAD-BASED paint on interior surfaces, and the
35 tenant refuses to vacate the affected property, the owner may not be liable for any
36 damages arising from the tenant's refusal to vacate.

37 (2) If an owner has made all reasonable efforts to gain access to an
38 affected property in order to perform any work required under this subtitle, and the

1 tenant refuses to allow access, even after receiving reasonable advance notice of the
2 need for access, the owner may not be liable for any damages arising from the tenant's
3 refusal to allow access.

4 (c) All hazard reduction treatments required to be performed under this
5 subtitle shall be performed by or under the supervision of personnel accredited under
6 § 6-1002 of this title.

7 6-823.

8 (a) THIS SECTION DOES NOT APPLY TO AN OWNER OF AN AFFECTED
9 PROPERTY THAT HAS BEEN CERTIFIED BY AN INSPECTOR AS LEAD-BASED PAINT
10 FREE HOUSING.

11 (B) By May 23, 1996, an owner of an affected property shall give to the tenant
12 of each of the owner's affected properties a lead poisoning information packet
13 prepared or designated by the Department.

14 [(b)] (C) On or after February 24, 1996, upon the execution of a lease or the
15 inception of a tenancy for an affected property the owner of the affected property shall
16 give to the tenant a lead poisoning information packet prepared or designated by the
17 Department.

18 [(c)] (D) An owner of an affected property shall give to the tenant of the
19 affected property another copy of the lead poisoning information packet prepared or
20 designated by the Department at least every 2 years after last giving the information
21 packet to the tenant.

22 [(d)] (E) A packet given to a tenant under this section shall be sent by:

23 (1) Certified mail, return receipt requested; or

24 (2) A verifiable method approved by the Department.

25 [(e)] (F) The packet required to be given to a tenant under this section shall
26 be sent to a party or parties identified as the lessee in a written lease in effect for an
27 affected property or, if there is no written lease, the party or parties to whom the
28 property was rented.

29 6-828.

30 (a) This section applies to an owner of an affected property who has, with
31 respect to the affected property, complied with the applicable requirements of §§
32 6-811, 6-812, 6-815, 6-817, and 6-819 of this subtitle, and has sent to the tenant the
33 notices required by §§ 6-820 and 6-823 of this subtitle.

34 (b) A person may not bring an action against an owner of an affected property
35 for damages arising from alleged injury or loss to a person at risk caused by the
36 ingestion of lead by a person at risk that is first documented by a test for [EBL] EIBL

1 of 25 ug/dl or more performed on or after February 24, 1996, or 20 ug/dl or more
2 performed on or after February 24, 2001, unless the owner has been given:

3 (1) Written notice from any person that the [elevated]
4 ENVIRONMENTAL INTERVENTION blood LEAD level of a person at risk is:

5 (i) Greater than or equal to 25 ug/dl as first documented by a test
6 for [EBL] EIBL performed on or after February 24, 1996; or

7 (ii) On or after February 24, 2001, an [EBL] EIBL LEVEL greater
8 than or equal to 20 ug/dl as first documented by a test for [EBL] EIBL performed on
9 or after February 24, 2001; and

10 (2) An opportunity to make a qualified offer under § 6-831 of this
11 subtitle.

12 6-843.

13 (a) (1) Except as provided in this subsection and subsection (b) of this
14 section, and in cooperation with the Department of Housing and Community
15 Development, the State Department of Assessments and Taxation, and other
16 appropriate governmental units, the Department shall provide for the collection of an
17 annual fee for every rental dwelling unit in the State.

18 (2) The annual fee for an affected property is \$10.

19 (3) (i) Subject to the provisions of subparagraphs (ii) and (iii) of this
20 paragraph, on or before December 31, 2000, the annual fee for a rental dwelling unit
21 built after 1949 that is not an affected property is \$5. After December 31, 2000, there
22 is no annual fee for a rental dwelling unit built after 1949 that is not an affected
23 property.

24 (ii) The owner of a rental dwelling unit built after 1949 that is not
25 an affected property may not be required to pay the fee provided under this
26 paragraph if the owner certifies to the Department that the rental dwelling unit is
27 [lead free] LEAD-BASED PAINT FREE HOUSING pursuant to § 6-804 of this subtitle.

28 (iii) An owner of a rental dwelling unit who submits a report to the
29 Department that the rental dwelling unit is [lead free] LEAD-BASED PAINT FREE
30 HOUSING pursuant to § 6-804 of this subtitle shall include a \$5 processing fee with
31 the report.

32 (b) The fees imposed under this section do not apply to any rental dwelling
33 unit:

34 (1) Built after 1978; or

35 (2) Owned and operated by a unit of federal, State, or local government,
36 or any public, quasi-public, or municipal corporation.

1 (c) The fee imposed under this section shall be paid on or before December 31,
2 1995, or the date of registration of the affected property under Part III of this subtitle
3 and on or before December 31 of each year thereafter.

4 (d) An owner who fails to pay the fee imposed under this section is liable for a
5 civil penalty of up to triple the amount of each registration fee unpaid that, together
6 with all costs of collection, including reasonable attorney's fees, shall be collected in a
7 civil action in any court of competent jurisdiction.

8 6-846.

9 (a) A local health department that receives the results of a blood lead test
10 under § 6-303 of this title indicating that a person at risk has an [EBL] EIBL LEVEL
11 greater than or equal to 15 ug/dl shall notify:

12 (1) The person at risk, or in the case of a minor, the parent of the person
13 at risk, of the results of the test; and

14 (2) The owner of the affected property in which the person at risk resides
15 or regularly spends at least 24 hours per week of the results of the test.

16 (b) The notices to be provided to the parent or owner under subsection (a) of
17 this section shall be on the forms prepared by the Department, and shall contain any
18 information required by the Department.

19 6-848.

20 The Department shall:

21 (1) Develop and establish community outreach programs to high lead
22 risk areas, which may be implemented by the Department, local governments, or
23 community groups; and

24 (2) Assist local governments to provide case management services if
25 necessary to persons at risk with [elevated blood lead] ENVIRONMENTAL
26 INTERVENTION BLOOD LEAD LEVELS.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2004.